

1 STEVEN G. KALAR  
2 Federal Public Defender  
3 ANGELA M. HANSEN  
4 Assistant Federal Public Defender  
5 555 - 12th Street, Suite 650  
6 Oakland, CA 94607-3627  
7 Telephone: (510) 637-3500

8 Counsel for Defendant FISH

9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA, ) No. CR-12-00086 YGR  
14 Plaintiff, )  
15 v. ) STIPULATION AND [PROPOSED]  
16 DAMON FISH, ) ORDER TO CONTINUE SENTENCING  
Defendant. ) HEARING DATE TO DECEMBER 6, 2012  
Date: October 25, 2012  
Time: 2:00 p.m.  
\_\_\_\_\_  
)

17 The above-captioned matter is set on October 25, 2012 before this Court for a sentencing  
18 hearing. The parties jointly request that the Court continue the matter to December 6, 2012, at  
19 2:00 p.m., before this Honorable Court so that the defense can have additional time to discuss the  
20 Pre-Sentence Investigation Report with Mr. Fish and to collect mitigation records that can be  
21 presented to the Court at sentencing.

22 On February 9, 2012, the Grand Jury charged Damon Fish a felon in possession of a  
23 firearm, in violation of 18 U.S.C. § 922(g). On August 2, 2012, Mr. Fish pleaded guilty to the  
24 Indictment pursuant to a Federal Rule of Criminal Procedure 11(c)(1)(C) agreement with the  
25 government. The Court set this matter for sentencing on October 25, 2012.

26 The parties jointly request that the Court continue the sentencing hearing to December 6,

Stip. Req. To Continue Sentencing Hearing Date,  
No. CR-12-00086 YGR

1 2012. The first reason for this continuance is that the defense would like additional time to  
2 discuss the final Pre-Sentence Investigation Report (PSR) with Mr. Fish because the offense  
3 level in the PSR differs from the offense level as calculated in the parties' binding plea  
4 agreement. Defense counsel needs additional time to assess and to confirm the Probation  
5 Office's Guidelines' calculation and to advise Mr. Fish. For example, the Probation Office has  
6 ordered Mr. Fish's parole records, which affected his offense level calculation in the PSR, and  
7 the Probation Office has agreed to allow the defense to review these records.

8       The second reason for this request is because a defense investigator recently determined  
9 that records from the Department of Social Services exist for Mr. Fish concerning his placement  
10 in foster care as a child. Because the records are twenty years old, the defense erroneously  
11 believed that these records were purged. After further investigation, the defense located Mr.  
12 Fish's file. The defense has ordered the file (with a release from Mr. Fish) but the records have  
13 not yet been produced to the defense. Because these records relate to Mr. Fish's background and  
14 history – a sentencing factor under 18 U.S.C. § 3553(a) – the defense would like additional time  
15 to obtain these records so that this information may be presented to the Court at sentencing.

16       Defense counsel spoke with the Probation Officer assigned to this case, John D. Woods.  
17 Mr. Woods does not oppose the continuance and is available on December 6, 2012.

18       Finally, because Mr. Fish has pleaded guilty, the parties are in agreement that the Speedy  
19 Trial Act does not apply.

20  
21  
22  
23  
24  
25  
26

1 DATED: October 17, 2012

\_\_\_\_\_  
/S/  
ANDREW HUANG  
Assistant United States Attorney

3

4 DATED: October 17, 2012

\_\_\_\_\_  
/S/  
ANGELA M. HANSEN  
Assistant Federal Public Defender

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

## ORDER

2       Based on the reasons provided in the stipulation of the parties above, the Court hereby  
3 **FINDS:**

4        1.     Given that the defense needs additional time to review and to confirm the  
5     Guidelines calculations in the final PSR because the offense level in the PSR differs from the  
6     offense level that was calculated in the parties' binding plea agreement;

7        2.     Given that the defense has requested but has not yet obtained mitigation  
8     information that the defense believes is relevant to the Court's sentencing determination;

9        3.     Given that the Government and Probation Office do not oppose this continuance;  
10     and  
11        4.     Given that Mr. Fish has pleaded guilty and that the Speedy Trial Act does not  
12     apply;

13       Based on these findings, IT IS HEREBY ORDERED that the sentencing hearing date of  
14      October 25, 2012, scheduled at 2:00 p.m., is vacated and reset for December 6, 2012, at 2:00  
15      p.m.

17 | DATED: October 22, 2012

*Yvonne Gonzalez Rogers*  
YVONNE GONZALEZ ROGERS  
United States District Judge